

**From:** Tom Marsh  
**To:** Microsoft ATR  
**Date:** 11/18/01 6:17pm  
**Subject:** Public Comment regarding Microsoft Settlement

To the Department of Justice:

As an IS professional who is intimately familiar with Microsoft's anti-competitive practices I must strenuously object to the settlement recently agreed to by Microsoft and the DoJ.

My first objection is that the settlement does not address the most flagrantly illegal and unethical actions that Microsoft has taken: their secret agreements with original equipment manufacturers (OEM).

Under these secret agreements, companies are forbidden to sell computers configured to run both Microsoft Windows and a competing operating system (such as Red Hat Linux or IBM OS/2). The penalty for breaking the agreement, or even acknowledging the existence of such an agreement, is the revocation of the OEM's right to sell Microsoft Windows. Since Windows represents about 92% of OEM business, this would put most PC manufacturers out of business. As such, none are willing to challenge the agreements. The only benefactor of these agreements is Microsoft; All other parties suffer.

The consumer suffers because if they don't have the knowledge to install a third party operating system they are de facto prohibited from using said third-party software since they can't buy a PC with the software pre-installed, and don't have the ability to install it themselves. The consumer also suffers from decreased innovation in the field of computers and software. The OEM suffers because it cannot offer a unique product in a competitive marketplace, under threat of shutdown by Microsoft.

My second objection is to the actual remedies indicated in the settlement. Microsoft is a company with \$25 billion in cash on its balance sheets. It could lose money for the next decade and still pay all employees. A seven year consent decree for Microsoft is like a being acquitted to a regular person. After all, we've been down the road of "be good, please" with this defendant before.

When their business practices ran afoul of the last settlement, Microsoft simply chose to break the agreement it had previously made, rather than fail to conquer the browser market.

It is my opinion that this settlement is not in the public interest. The public's interest is best served by having a rich menu of software delights to choose from, not a 3x5 card with one word written on it, "Windows".